

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria division**

**MOHAMMAD ANWAR**

**Plaintiff,**

**V.**

**ABDUL RAHMAN AYOUBI**

**Defendant.**

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**C.A. No. 1:13cv1123 LMB/TKJ**

## **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTIONS TO DISMISS**

COMES NOW Plaintiff, Mohammad Anwar, by counsel, and for his opposition to the Defendant's motions to dismiss presents the following:

1. Defendant in his “Brief” in support of his motions to dismiss admits the standard that in deciding a motion to dismiss a complaint the court must treat all factual allegations of plaintiff as true. In this context Plaintiff’s complaint, inclusive of the exhibits, satisfies the subject matter jurisdiction of the court under 28u.s.c.§1332 (a) by pleading damages in the amount of \$142,395.00 inclusive of compensatory and punitive damages.
2. Plaintiff’s complaint pleads of adequate factual allegation against defendant to satisfy the requirement of Ashcroft v. Iqbal, 129.s.ct. 1937, 1940 (2009) as to “state a claim to relief that is plausible on its face.” Plaintiff’s Exhibits “A”, “B”, “C”, and “D” are providing factual basis for breach of fiduciary duty of defendant and plaintiff’s

allegation of fraud under Rule 9 (b) of The Federal Rules of Civil Procedure.

3. Plaintiff's complaint, inclusive of exhibits, well demonstrates that defendant breached his fiduciary duty by failing to pay plaintiff's his share of the down payment received from the buyer of the property in Kabul, Afghanistan.
4. Plaintiff's Complaint also indicates that defendant after receiving the notice of cancellation of the power of Attorney dated June 22, 2012 proceeded to finalize the sale and collected the total proceeds fraudulently and maliciously.
5. Defendant also claims that plaintiff's complaint failed to set forth its claims in numbered paragraphs. Plaintiff's complaint is inclusive of four (4) exhibits and paragraph (c) of the Rule 10 states that "A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes." In this context, plaintiff considered his complaint satisfactory of Rule 10 requirement. However, plaintiff can take advantage of Rule 15 (a) and prepare and file an amended complaint.

WHEREFORE, Plaintiff prays the court to dismiss defendant's motions and to permit plaintiff to present an amended complaint within ten (10) days.

Respectfully Submitted  
Mohammad Anwar  
By Counsel

/s/ Jahangir Ghobadi

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 8<sup>th</sup> day of November, 2013, a true and correct copy of the foregoing was served upon counsel for the defendant through this Court's ECF filing system.

/s/ Jahangir Ghobadi

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